

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0446P
Adjusted Gross Income Tax
Calendar Years ended 12/31/97, 12/31/98, and 12/31/99

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

The Department issued Liability Number 1999-01828234 for an underpayment penalty to which the taxpayer merely states that it has paid all penalties and interest pertaining to an audit that covers the year at issue.

Audits, however, do not cover the timing or amounts of estimated tax paid but the application of tax law. The company had missed adding back required taxes that resulted in penalties for additional tax due.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer merely states that all penalties and interest had been assessed and paid and since it paid estimates, it feels the assessment unfair and unjust.

Taxpayer failed to pay one hundred percent (100%) of the prior year's tax in estimated tax payments for 1999 that resulted in an underpayment penalty.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations.

Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The taxpayer has not provided reasonable cause or viable arguments to allow a penalty waiver.

FINDING

Taxpayer’s protest is denied.